

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0718V

UNPUBLISHED

FRANK POLETO,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 15, 2021

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Guillain-Barre Syndrome (GBS)

Matthew F. Belanger, Faraci Lange, LLP, Rochester, NY, for petitioner.

Amanda Pasciuto, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On June 15, 2020, Frank Poleto filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered from Guillain-Barre Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine received on January 5, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 15, 2021, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent agrees that “petitioner suffered from GBS, and that he has satisfied the criteria set forth in the revised Vaccine Injury Table (Table) and the Qualifications and Aids to Interpretation (“QAI”) which afford him a presumption of vaccine

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

causation if the onset of GBS occurs between three and forty-two days after a seasonal flu vaccination and there is no more likely alternative diagnosis and no apparent alternative cause.” *Id.* at 5.

In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master